IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.259 OF 2004

Anubhav A. Agarwal ...Appellant

vs.

Municipal Corporation of
Greater Mumbai and another ...Respondents

Mr.Yadunath Chaudhari for the Appellant
Mr.N.V.Walawalkar with Ms Geeta Joglekar for the Respondents

CORAM: A.S.OKA,J.
DATE : MARCH 9,2005.

P.C.:

1. After arguing the Appeal for sometime, Advocate for the Appellant has tendered an Affidavit/undertaking of the Appellant. The Advocate for the Appellant states that the Appellant is personally present in the Court. The said Affidavit/undertaking is taken on record and marked "X" for identification. In the said Affidavit the Appellant has stated that,

"I say that I may be permitted to file Appeal before the State of Maharashtra under the provisions of M.R.T.P. act challenging the order dated 14-01-2005 passed by Municipal Commissioner and communicated by Executive Engineer (B.P.) whereby the regularisation proposal made by the Applicant was rejected. I say that the ad-interim order passed by this Hon'ble Court on 11-02-2005 be continued for a period of six weeks. In the meantime, I undertake to this Hon'ble Court not to carry out any construction activity in the suit property

till the order passed by the State of Maharashtra. I also undertake to withdraw L.C.Suit No.747 of 2005 pending in the Hon'ble City Civil Court."

The undertakings contained in the said paragraph are accepted.

2. I have heard the learned Counsel for the Respondent.

3. In view of the said undertakings, I pass the following order :

i) L.C.Suit No.747 of 2005 is dismissed as withdrawn. Consequently, this Appeal does not survive.

ii) Notwithstanding with dismissal of the suit and the Appeal, it will be open for the Appellant to prefer an Appeal under Section 47 of M.R.T.P. Act, 1966 for challenging the order passed by the Respondent No.1-Corporation refusing to grant building permission and/or refusing to regularise the construction made by the Appellant. The Appellant will give intimation in writing to the Respondent No.1-Corporation if any such Appeal is filed and will also serve a copy of the Memorandum of Appeal on the Respondent no.1-Corporation. It will be also open to the Appellant to apply for appropriate interim relief in the said Appeal.

iii) If such Appeal is filed by the Appellant within a period

of three weeks from today, ad-interim order passed by this Court on 11th February 2005 will continue to operate for a period of six weeks to enable the Appellant to apply for appropriate interim relief before the Appellate Authority.

iv) It is made clear that if the Appeal is not preferred within three weeks from today, it will be open for the Respondent No.1-Corporation to take action of demolition.

v) Appeal from Order is disposed of in above terms with no order as to costs.

vi) Parties to act upon an authenticated copy of this order.

JUDGE.